

From: Will Dennis
To: Microsoft ATR
Date: 1/23/02 11:42pm
Subject: Microsoft Settlement

Dear Sirs:

Please register my opposition to the Proposed Final Judgment (PFJ) in United States vs. Microsoft. I believe that the PFJ in its current form is not strong enough to prevent Microsoft from still dominating the computer software and operating system business by anti-competitive business practices. We need a strong Final Judgment which causes Microsoft to compete fairly in an open marketplace where the best software (most stable, secure and featureful at a given price point) wins on merit.

Problems with the current PFJ include:

- * The PFJ doesn't take into account Windows-compatible competing operating systems
- * The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.
- * The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.
- * The PFJ allows users to replace Microsoft Java with a competitor's product -- but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.
- * The PFJ supposedly applies to "Windows", but it defines that term so cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box -- operating systems that all use the Win32 API and are advertised as being "Windows Powered".
- * The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.
- * The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware -- but only after the deadline for the ISVs to demonstrate that their middleware is compatible.
- * The PFJ requires Microsoft to release API documentation -- but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.
- * The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents (which are arguably a document interchange standard today.)
- * The PFJ does not require Microsoft to list which software patents protect the Windows APIs.
- * The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft (Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows, and Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing

operating systems.)

- * Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system -- even for computers running Linux.

(Similar licenses to OEMs were once banned by the 1994 consent decree.)

- * The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft (Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.)

- * The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

- * The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

- * The PFJ as currently written appears to lack an effective enforcement mechanism.

Microsoft needs to be restrained from continuing its' anti-competitive practices it enjoys via its abuse of its' monopoly position in the current marketplace. A stronger Proposed Final Judgment needs to be crafted to guard against Microsoft taking advantage of the weaknesses in the PFJ, and continuing "business as usual." Let Microsoft compete on a level playing field that would be established with a strong but fair Final Judgment, and let the free market decide their market share without Microsoft's "hand on the scale."

Thank you,

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